

The Honorable James L. Robart

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

GERALDINE BARABIN, as Personal
Representative for the Estate of HENRY
BARABIN, deceased,

Plaintiff,

v.

ASTENJOHNSON, et al.,

Defendants.

NO. 2:07-cv-01454-JLR

~~PROPOSED~~ PRETRIAL ORDER

Pursuant to LCR 16(i), Defendant Scapa Dryer Fabrics, Inc. and Plaintiff jointly
offer the following Proposed Pre-Trial Order.

I. JURISDICTION

Jurisdiction is vested in this court by virtue of 28 USC §1332(a) as the matter in
controversy exceeds \$75,000 and is between citizens of different States.

II. CLAIMS AND DEFENSES

The plaintiff will pursue at trial the following claims:

1. Product Liability pursuant to Restatement of Torts (Second) §402A (1965);
2. Negligence; and
3. Damages

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- a. Non-economic damages;
- b. Medical and related expenses;
- c. Loss of earnings, wages and future earnings; and
- d. Loss of consortium for plaintiff Geraldine Barabin.

The defendant will pursue the following affirmative defenses and/or claims:

1. Scapa specifically denies that it mined, milled, processed, manufactured, supplied, distributed, marketed or sold any products containing asbestos that are causally related to Plaintiff's alleged injuries;

2. Whatever damages Plaintiff may have suffered, if any, were solely and proximately caused by the negligence or other conduct of one or more of the other defendants above-named, or, in the alternative, by the negligence or other conduct of some person, corporation, association, or legal entity not presently a party to this lawsuit;

3. The Plaintiff's complaint fails to state a claim against Scapa upon which relief may be granted;

4. Whatever damages Plaintiff may have suffered, if any, were directly and proximately caused by the actions of fellow co-workers of Mr. Barabin;

5. Whatever damages Plaintiff may have suffered, if any, were due solely or in part to the failure of Mr. Barabin's employer or employers to take adequate precautions and provide him with a safe place to work;

6. Scapa expressly denies that Mr. Barabin inhaled injurious quantities of asbestos fibers from products for which Scapa is liable. Any products for which Scapa might be held legally accountable and which Mr. Barabin allegedly used or was exposed to, if any, were not in the same condition as when sold, having been materially altered after the sale and prior to the use or exposure as alleged;

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7. That if it is proven at the time of trial that the products of Scapa were manufactured, furnished, supplied and/or sold as alleged in Plaintiff's complaint, and if said products were used in the fashion alleged, all of which is specifically denied except as otherwise set forth above, then any such product manufactured, supplied, furnished and/or sold by Scapa was so manufactured, furnished, supplied and/or sold in strict conformity with the prevailing state of medical art and the prevailing standards of the industry; Scapa's conduct, and any such product for which it bears responsibility, was at all times in strict conformity with the prevailing standard of medical science and the prevailing standards of the industry. The state of medical, scientific and industrial knowledge, art and practice was at all material times such that Scapa neither breached any duty owed to Mr. Barabin, nor knew or could have known, that the products for which it bears responsibility presented a foreseeable risk of harm to Mr. Barabin in connection with asbestos exposure from the normal and expected use of such products;

8. The liability of Scapa, if any, was secondary, passive and subordinate to the primary, active and intervening causation of the negligent acts and/or omissions of other entities and/or non-parties, for which Scapa is not liable;

9. Plaintiff has failed to join indispensable or necessary parties, including but not limited to: Amatex Corp., Aanco Holdings Inc., AC and S, Inc., American Shipbuilding, A.P. Green Services, Armstrong World Industries, The Artra Group including The Synkoloid Company, Asbestec Industries Inc., Asbestospray Corp., Asbestos Claims Management, Atlas Corp., Babcock & Wilcox, Baldwin Ehret Hill, Beadex Manufacturing Company Inc., Bethlehem Steel, Brunswick Fabrications, Inc., Burns & Roe Enterprises, Carey Canada Inc., The Celotex Corp., Cassiar Mines, Combustion Engineering, Delaware Insulations, Philip Carey Co., Eagle-Picher Industries, Eastco Industrial Safety Corp., E. J. Bartells, Federal-

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1 Mogul, Forty-Eight Insulations, Fuller-Austin Insulation, G-I Holdings (GAF), Gatke Corp.,
2 Hamilton Materials Inc., Harbison-Walker, Hillsborough Holdings, H.K. Porter Co., Johns
3 Manville, Kaiser Aluminum & Chemical, Keene Corp., Kentile Floors, Lykes Brothers
4 Steamship, M.H. Detrick, National Gypsum Co., Nicolet/Keasby-Mattison, North American
5 Refractories Company, North American Asbestos Corp., Owens Corning, Pacor, Plibrico Co.,
6 Pittsburgh Corning, Porter Hayden, Prudential Lines, Raybestos-Manhattan, Raymark
7 Industries, Raytech Industries Corp., Rock Wool Manufacturing, Rutland Fire & Clay Co.,
8 Skinner Engine Company, SGL Carbon, Shook & Fletcher, Standard Asbestos Manufacturing
9 and Insulation, Standard Insulations, Todd Shipyards, Unarco Industries Inc., United States
10 Gypsum Corp., United States Mineral Co., United States Lines, UNR Industries Corp., U.S.
11 Steel, Walter Industries, Washington Group International, and W.R. Grace & Co., and the
12 companies who manufactured and/or supplied the cigarettes and other tobacco products used
13 by or around Mr. Barabin;

14 10. Mr. Barabin was employed by knowledgeable and sophisticated employers and
15 any duty Scapa may have had to warn him/her of any potential harm incident to the normal use
16 of products for which Scapa bears responsibility, which duty is denied, was discharged by
17 his/her employer's intervening duty to give him/her any required warnings;

18 11. If at the time of trial Scapa is held accountable for any asbestos-containing
19 products, Mr. Barabin's exposure to asbestos attributable to Scapa, if any, was of a de minimis
20 nature and could not within a reasonable degree of medical certainty be the legal and proximate
21 cause of Plaintiff's alleged injuries.

22 III. ADMITTED FACTS

23 The following facts are admitted by the parties:
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1 1. Decedent Henry Barabin worked as a laborer at the Texaco Refinery in Port
2 Arthur, Texas from 1965 to 1968.

3 2. The pipes and equipment throughout the Texaco Refinery had asbestos-
4 containing pipe, block, and Limpet spray insulation.

5 3. Decedent Henry Barabin cleaned up debris from asbestos-containing pipe,
6 block, and Limpet spray insulation during his employment at the Texaco Refinery.

7 4. Decedent Henry Barabin worked in the Crown-Zellerbach Camas Mill from
8 April 17, 1968 through November 30, 2001.

9 5. Decedent Henry Barabin worked as a papermaker at the Camas Mill.

10 6. During his employment at the Camas Mill, Mr. Barabin worked on and around
11 all of the paper-making machines at the Camas Mill.

12 7. Mr. Barabin's work at the Camas Mill included changing dryer felts during shut
13 downs and also as part of routine maintenance when felts ripped or broke.

14 8. Mr. Barabin cut the felts and installed new ones. He took scraps of the old felts
15 home. He blew out the paper machines using compressed air. He cleaned up with compressed
16 air after each shift and after paper breaks. He also worked around other laborers during this
17 time period when they performed these same tasks.

18 9. The pipes and equipment throughout the Camas Mill had asbestos-containing
19 pipe insulation, asbestos-containing block insulation, Limpet spray, asbestos-containing
20 cement/mud, asbestos-containing board insulation, and internal asbestos-containing gaskets
21 and packing.

22 10. Decedent Henry Barabin walked by or was a bystander when asbestos-
23 containing pipe, block, Limpet spray, and board insulation and asbestos-containing
24 cement/mud and internal gaskets and packing were being disturbed when these materials were

1 being disturbed, including but not limited to walking past asbestos-insulated digesters, opening
2 and closing valves, and observing millwrights, boilermakers, electricians, and insulators
3 working in his vicinity removing, installing, and disturbing these products. Limpet spray
4 insulation was present in the Texaco Refinery in Port Arthur, Texas when Plaintiff Henry
5 Barabin worked there.

6 11. Decedent Henry Barabin had direct exposure to asbestos-containing pipe, block,
7 Limpet spray, and board insulation and asbestos-containing cement/mud and internal gaskets
8 and packing when he used compressed air to clean up.

9 12. Limpet was made of asbestos fibers, Portland cement, and oil. Formulas used
10 either 100% crocidolite, amosite, or chrysotile, or a blend of amosite and crocidolite. It was
11 typically used for fireproofing, or high temperature insulation. It was applied using a nozzle to
12 spray the product on the item to be insulated.

13 13. From 1981 to 1996, over 1,000,000 (ONE MILLION) linear feet of insulation
14 containing between 2% and 90% crocidolite, amosite, and/or chrysotile asbestos was abated
15 from the Camas Mill. This insulation contained 2-90% crocidolite, amosite and/or chrysotile
16 asbestos.

17 14. From 1981 to 1996, over 350,000 (THREE HUNDRED FIFTY THOUSAND)
18 square feet of asbestos-containing transite was abated from the Camas Mill.

19 15. From 1959 to 1978, Scapa manufactured and distributed both asbestos and non-
20 asbestos containing dryer felts.

21 16. From 1964 to 1982, Scapa supplied 505 dryer felts, 276 non-asbestos containing
22 felts and 229 asbestos-containing felts, to the Camas Mill. Albany, AstenJohnson, Atlanta, and
23 Niagara brand dryer felts were also utilized during Decedent Henry Barabin's employment at
24 the Camas Mill.

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1 17. Mr. Barabin was diagnosed with malignant pleural mesothelioma on
2 November 1, 2006. Mr. Barabin died on March 30, 2012 from mesothelioma.

3 IV. FACTUAL CONTENTIONS

4 The Plaintiff contends as follows:

5 1. Asbestos-containing dryer felts made by defendant Scapa Dryer Fabrics, Inc.
6 were an integral component of the paper machines Mr. Barabin worked on.

7 2. Decedent Henry Barabin recalls Scapa dryer felts as felts that were used at the
8 Camas Mill.

9 Scapa contends as follows:

10 1. Paper machine hoods at the Camas Paper Mill contained crocidolite during Mr.
11 Barabin's employment.

12 2. In 1987, the employee locker room at Camas Paper Mill was contaminated with
13 asbestos during an asbestos removal.

14 3. Decedent Henry Barabin did not recall working with any asbestos-containing
15 Scapa dryer felts.

16 4. Mr. Barabin's mesothelioma was not caused by exposure to Scapa dryer felts.

17 5. Scapa's dryer felts were reasonably safe in their manufacture and design
18 including warnings.

19 6. Scapa exercised ordinary care in manufacturing its dryer felts.

20 7. Mr. Barabin's mesothelioma was caused by exposure to amphibole asbestos
21 (amosite and crocidolite) containing products, including but not limited to amphibole asbestos-
22 containing thermal insulation, during the years he was employed at the Texaco Refinery in Port
23 Arthur, Texas and at the Camas Paper Mill.

V. ISSUES OF LAW

Plaintiff submits the following as issues of law to be determined by the court:

1. Whether defendant Scapa Dryer Fabrics, Inc. is liable under Washington product liability law for manufacturing, selling and distributing an unreasonably dangerous product without warnings to which Decedent was exposed, causing Decedent's mesothelioma, an incurable and terminal disease?

2. Whether defendant Scapa Dryer Fabrics, Inc. failed to exercise ordinary care, failed to provide any warnings and is negligent under Washington negligence law for manufacturing, selling and distributing an unreasonably dangerous product to which Decedent was exposed, causing Decedent's mesothelioma, an incurable and terminal disease?

Scapa submits the following as issues of law to be determined by the court:

1. Whether Plaintiff can meet the burden of proof with regard her claims against Scapa under the laws of the State of Washington.

2. Whether Plaintiff's settlements are unreasonable entitling any judgment defendant to an offset of a reasonable settlement amount under RCW 4.22.060 and other applicable law.

VI. EXPERT WITNESSES

(a) Each party shall be limited to 1 expert witness(es) on ~~the issues of~~ any specific topic. Defendant Scapa contends, and Plaintiff disputes, that Plaintiff's expert Steven Compton's testimony and opinions are cumulative of those of expert Christopher DePasquale and should be prohibited from testifying on that basis.

(b) The name(s) and addresses of the expert witness(es) to be used by each party at trial and the issue upon which each will testify is:

1. On behalf of plaintiff:

Barry Ben-Zion, Ph.D.
3588 Kelsey Knolls
Santa Rosa, California 95403

WILL TESTIFY

Dr. Ben-Zion is a forensic economist. Dr. Ben-Zion will be sufficiently familiar with the case to provide a meaningful oral deposition. Dr. Ben-Zion may testify regarding the economic value of losses in the case; Dr. Ben-Zion may also testify as to the loss of wages, pensions and other economic losses. Dr. Ben-Zion will also testify generally regarding the concept of present value and its application to economic losses, particularly wage loss, pension loss and future medical costs. Dr. Ben-Zion may also testify about the financial statements of various defendants and their financial condition and net worth. Dr. Ben-Zion may also testify regarding participation in and/or market share of various asbestos manufacturers as well as all related market share facts for which plaintiffs bear that burden of proof under applicable case law.

Arnold R. Brody,
Ph.D. 1910 Glenmartin
Drive Raleigh, NC
27615

WILL TESTIFY

Dr. Brody is a cellular biologist. Dr. Brody may testify as to the anatomy and associated asbestos-induced pathology of human and animal lungs, the causation and pathogenesis of asbestos-related disease and the deposition patterns of inhaled fibers and how this relates to asbestos exposures encountered in buildings and/or the work place. He will also testify regarding asbestos' effects on immune systems. Dr. Brody will further testify in accordance with his report in this case.

Dr. Carl Andrew Brodtkin, M.D.,
M.P.H.
3607 47th Avenue, N.E.
Seattle, WA 98105

WILL TESTIFY

Dr. Brodtkin is a specialist in pulmonary medicine and asbestos-related disease. Dr. Brodtkin may testify as to his opinions and conclusions regarding asbestos disease and all related foundational aspects. Dr. Brodtkin may also testify as to his opinions and conclusions regarding asbestos-related disease and the subject's medical condition, clinical course, etiology, diagnosis, treatments, medical monitoring, medical expenses and cost of care, and prognosis. Dr. Brodtkin will further testify in accordance with his report in this case.

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<p>Dr. Richard Cohen, M.D., M.P.H. 1942 Panorama Drive Saratoga, CA 95070</p> <p>WILL TESTIFY</p>	<p>Dr. Cohen is a specialist in occupational and preventive medicine. Dr. Cohen may testify as to the state of the medical and scientific art concerning asbestos-related diseases at relevant times and regarding the nature and use of asbestos products and decedent's exposure to asbestos. Dr. Cohen may testify as to asbestos product defects, the release of asbestos fibers from asbestos products, disease potential of various asbestos products, asbestos health hazards, industry and Navy awareness, and state of the art relating to the hazards of asbestos, application rules and regulations, and other industrial hygiene related issues.</p>
<p>Steven P. Compton, PhD MVA Scientific Consultants 3300 Breckinridge Blvd #400 Duluth, GA 30096</p> <p>WILL TESTIFY</p>	<p>Dr. Compton is a materials scientist and electron microscopist. Dr. Compton may testify regarding potential health hazards of asbestos in the work place, content of asbestos-containing products, release of asbestos fibers from asbestos-containing products, including but not limited to, dryer fabrics and felts, and similar products, resuspension of asbestos fiber, asbestos-containing product defects, the disease potential of asbestos-containing products, testing and monitoring techniques for detecting the presence of asbestos dust, including, but not limited to electron microscopy, and nature of asbestos and asbestos fibers as well as all material science and asbestos foundational aspects. Dr. Compton will further testify in accordance with his report in this case.</p>

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Christopher DePasquale, CIH
Compass Environmental, Inc.
1751 McCollum Parkway
NW Kennesaw, GA 30144

WILL TESTIFY

Mr. DePasquale is a certified industrial hygienist with a Masters in Public Health. Mr. DePasquale may testify regarding EPA and state government policies, regulations and guideline documents pertaining to asbestos in buildings and the utility of air and dust sampling in determining building exposures and risks. Mr. DePasquale may testify as to all aspects of asbestos and asbestos products, the adequacy of knowledge, the state of knowledge, the release of asbestos fibers from asbestos products, and all physical characteristics of said fibers, including contamination, de-contamination and related abatement protocols, disease potential of various asbestos products, asbestos health hazards, industry awareness, and state of the art relating to the hazards of asbestos, applicable rules and regulations, and other industrial hygiene issues. This expert may testify regarding issues including but not limited to: asbestos containing dryer felts and fabrics, and/or other materials. This is not an exhaustive list of asbestos material which this expert may testify about, but merely representative and this expert may testify about any and all materials which contain asbestos. This expert may testify about the propensity and ability for asbestos-containing products to release dust and release asbestos dust into the air of persons using those products when they are in place, as well as fiber count ranges from said products when made, used or abated. This expert may testify about how such asbestos materials were used in their ordinary and intended manner, and how that ordinary and intended use causes the release of respirable asbestos dust. This expert may testify about the offensive and injurious aspects of asbestos fiber deposition once inhaled. This expert may testify about the visibility of dust containing asbestos as well as various product use videotapes. Mr. DePasquale will further testify in accordance with his report in this case.

Dr. David Tarin, M.D.
856 San Antonio Place
San Diego, CA 92106

WILL TESTIFY

Dr. Tarin is a pathologist. Dr. Tarin may testify as to pathology, diagnosis and causation and other asbestos-related medical issues raised in the matter, as well as his examination of the pathology specimens. Dr. Tarin will further testify in accordance with his reports in this case.

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<p>James R. Millette</p> <p>WILL TESTIFY VIA PRIOR TRIAL TESTIMONY</p> <p>SCAPA Objects on the grounds that Mr. Millette was not previously disclosed as a witness in this trial and objects to use of prior trial testimony of an expert as affirmative testimony.</p>	<p>Trial testimony of James Millette taken in <u>Henry Barabin and Geraldine Barabin v. AstenJohnson, Inc., et al.</u>, in the United States District Court, Western District of Washington in Seattle, Cause No. C07-1454RSL, on November 5, 2009.</p>
<p>Dr. Samuel Hammar</p> <p>WILL TESTIFY VIA PRIOR TRIAL TESTIMONY</p> <p>SCAPA objects on the grounds that Dr. Hammar was not previously disclosed as a witness in this trial, Dr. Hammar testified as Scapa's expert in the prior trial, and it is improper for Plaintiff to use Scapa's expert to introduce cross-examination without there being any direct examination of the witness.</p>	<p>Trial testimony of Dr. Samuel Hammar taken in <u>Henry Barabin and Geraldine Barabin v. AstenJohnson, Inc., et al.</u>, in the United States District Court, Western District of Washington in Seattle, Cause No. C07-1454RSL, on November 9, 2009.</p>
<p>Paul Carlson</p> <p>WILL TESTIFY VIA PRIOR TRIAL TESTIMONY</p> <p>SCAPA objects on the grounds that Mr. Carlson is Scapa's expert in this case and will be testifying live on Scapa's behalf. It is improper for Plaintiff to use Scapa's expert to introduce cross-examination before Scapa presents its expert. Plaintiff will have an opportunity to cross-examine Mr. Carlson and use his prior testimony to impeach him if appropriate.</p>	<p>Trial testimony of Mr. Paul Carlson taken in <u>Henry Barabin and Geraldine Barabin v. AstenJohnson, Inc., et al.</u>, in the United States District Court, Western District of Washington in Seattle, Cause No. C07-1454RSL, on November 9, 2009.</p>

2. On behalf of defendant:

Paul Carlson, CIH
 Paul Carlson Associates
 4080 SE International Way, Suite
 B101
 Milwaukie, OR 97222

Will Testify

Mr. Carlson is a certified industrial hygienist. Mr. Carlson may testify on industrial hygiene practices in pulp and paper mills. He may also testify about the environment, operations and workings in pulp and paper mills, including the paper machine areas of pulp and paper mills. He may testify specifically as to these topics as they pertain to the Crown Zellerbach Mill in Camas, WA, based on his prior work at and more recent visit to that paper mill. He may also testify about the air sampling studies undertaken by him and others in various paper mills, particularly around the paper machines and the dryer felts/fabrics used on the paper machines in the 1970s and 1980s. He may testify about his employment as a corporate industrial hygienist for Crown Zellerbach/James River Corporation and air sampling he conducted at various paper mills during his employment. He may also testify about his experience with Oregon OSHA. He may testify about the composition, construction, purpose, use and operation of dryer felts in papermaking. He may testify about testing conducted on dryer felts referenced in his report. He may also testify that, based upon his experience in the paper mills, the use of dryer felts/fabrics did not pose a health hazard to paper mill workers. He may testify regarding the OSHA warning label provisions concerning asbestos and why warnings labels were not required on chrysotile containing dryer felts.

Mr. Carlson may testify regarding Decedent's exposure to amphibole asbestos including but not limited to such exposures as the Port Arthur Refinery, the Camas Paper Mill, and other locations. He will testify that Mr. Barabin had zero to background ambient exposure levels from Scapa chrysotile-containing dryer felts.

Mr. Carlson may also respond to matters raised within his field of expertise by Plaintiff's experts in the presentation of Plaintiff's case-in-chief. Accordingly, Mr. Carlson's testimony is dependent upon the prior testimony of Plaintiff's experts and cannot be predicted with further specificity.

Mr. Carlson's testimony will be based upon his training, experience, research, education, writings, review of scientific literature concerning asbestos disease and other relevant matters, and review of depositions, expert reports and documents and relevant to Mr., Barabin. Mr. Carlson is expected to testify

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1		consistent with his report and his deposition given in this case.
2	James D. Crapo, MD	Dr. Crapo is board certified in internal medicine and pulmonary disease. Dr. Crapo may testify about his
3	4650 South 4th Street	review of Mr. Barabin's medical records and expert
4	Englewood, CO 80110	reports produced in this case. Dr. Crapo may testify
5	May Testify	about the anatomy and function of the human
6		respiratory system, pulmonary function testing,
7		diseases associated with exposure to asbestos and the
8		development of related scientific and medical
9		knowledge. Dr. Crapo may testify about the
10		pulmonary aspects of asbestos exposure and the
11		epidemiology relevant thereto, including such matters
12		as dose response, cumulative exposure and causation
13		thresholds, progression, cancer risk, scientific opinions
14		and theories as to how asbestos may be involved in the
15		cause of various cancers, and experimental animal
16		studies relating to the initial biological response to
17		asbestos. He may also testify regarding toxicology, the
18		linear dose extrapolation model and quantitative risk
19		assessment of different individuals with different levels
20		and types of asbestos exposures and determine, insofar
21		as science is able, the risks of those individuals to
22		contract conditions which may be asbestos-related, as
23		well as their risks of contracting various forms of
24		cancer.
25		Dr. Crapo may also testify about cancer risk from
		asbestos exposure including comments on the relevant
		literature, federal statistics and publications as well as
		the risk relevant to Mr. Barabin. Dr. Crapo may testify
		that low dose exposure to chrysotile asbestos does not
		cause mesothelioma. Dr. Crapo may further testify that
		dryer fabrics manufactured with chrysotile asbestos-
		containing yarn are not hazardous and that any possible
		exposure Mr. Barabin may have had to asbestos from
		Scapa dryer fabrics manufactured with chrysotile
		asbestos-containing yarn could not have caused Mr.
		Barabin's mesothelioma. Dr. Crapo may also testify
		about asbestos exposure among refinery workers and
		pulp and paper mill workers and what is known about
		the effects of such exposure as reflected by the medical
		and scientific literature.
		Dr. Crapo may also respond to matters raised within his
		field of expertise by Plaintiff's experts in the
		presentation of Plaintiff's case-in-chief. Accordingly,
		Dr. Crapo's testimony is dependent upon the prior
		testimony of Plaintiff's experts and cannot be predicted

1		with further specificity.
2		Dr. Crapo's testimony will be based upon his training,
3		experience, research, education, writings, review of
4		medical and scientific literature concerning asbestos
5		disease and other relevant matters, and review of
6		depositions, expert reports, documents and medical
7		records relevant to Mr. Barabin. Dr. Crapo is expected
8		to testify consistent with his report and his deposition
9		given in this case.
10	Andrew Churg, MD	Dr. Churg is a pathologist at the University of British
11	1229 W 7 th Avenue	Columbia in Vancouver, British Columbia. He is
12	Vancouver, BC V6H 1B7	board certified in anatomic and clinical pathology. He
13	Canada	may provide testimony, live or by deposition, regarding
14	Will Testify	his examination of Mr. Barabin's medical records,
15		work history and pathology material. He may also
16		testify regarding the biological effects of asbestos and
17		the evidence of the relationship between the inhalation
18		of various forms of asbestos fibers and asbestos-
19		associated disease and the factors that go into
20		evaluating whether there is any medical risk from
21		asbestos-containing products. Dr. Churg may also
22		provide testimony regarding animal research and
23		asbestos-related disease, the biological effects of
24		asbestos and other dusts, cancer research, the practices
25		and protocols regarding publication of scientific
		research, and the history of research into such matters
		in the United States and elsewhere.
		Dr. Churg may generally testify concerning asbestos-
		related diseases and the effects of exposure to various
		asbestos-containing products upon persons in
		occupational and non-occupational settings. He may
		further testify regarding the epidemiology of asbestos-
		related diseases, fiber gradients, ambient levels of
		asbestos and the existence of a dose-response
		relationship between exposure to asbestos and
		asbestos-related diseases. He may also testify
		regarding asbestos causation thresholds and the relative
		risk of personal injury or death as a result of exposure
		to different types of asbestos at different cumulative
		exposure. Dr. Churg is expected to testify that Mr.
		Barabin's disease was not caused by his work with or
		around dryer felts.
		Dr. Churg may also respond to matters raised within
		his field of expertise by Plaintiff's experts in the
		presentation of Plaintiff's case-in-chief. Accordingly,
		Dr. Churg's testimony is dependent upon the prior
		testimony of Plaintiff's experts and cannot be predicted

1		with further specificity.
2		Dr. Churg's testimony will be based upon his training,
3		experience, research, education, writings, review of
4		medical and scientific literature concerning asbestos
5		disease and other relevant matters, and review of
6		depositions, expert reports, pathology material,
7		documents and medical records relevant to Mr.
8		Barabin. Dr. Churg is expected to testify consistent
9		with his report which is concurrently being produced
10		and his anticipated deposition to be given in this case.
11	Mark R. Newton	Mr. Newton is an expert economist. Mr. Newton will
12	Hagen Streiff Newton & Oshiro,	testify based upon his review of financial and other
13	Accountants, P.C.	records of Plaintiff and/or Mr. Barabin, and any expert
14	1330 Broadway, Suite 430	report produced by Plaintiff's economist in this case, as
15	Oakland, CA 94612	to his opinion of the value of the economic losses, if
16	Will Testify	any, incurred by Plaintiff and/or Mr. Barabin as a
17		consequence of Mr. Barabin's alleged injuries and
18		subsequent death. Mr. Newton will testify to the
19		matters contained in his report, curriculum vitae, fee
20		schedule and list of testimony produced with this
21		designation.
22		Mr. Newton may also respond to matters raised within
23		his field of expertise by Plaintiff's experts in the
24		presentation of Plaintiff's case-in-chief. Accordingly,
25		Mr. Newton's testimony is dependent upon the prior
		testimony of Plaintiff's experts and cannot be predicted
		with further specificity.
		Mr. Newton's testimony will be based upon his
		training, experience, research, education, writings, and
		review of depositions, expert reports, and financial
		documents relevant to Plaintiff and/or Mr. Barabin.
		Mr. Newton is expected to testify consistent with his
		report which is concurrently being produced and his
		anticipated deposition to be given in this case.
	Joseph D. Wendlick, CIH	Mr. Wendlick is a Certified Industrial Hygienist.
	851 South Marine Hills Way	Mr. Wendlick may testify on industrial hygiene
	Federal Way, WA 98003	practices in pulp and paper mills. He may also testify
	May Testify	about the air sampling studies he undertook in various
		paper mills, particularly around the paper machines and
		the dryer fabrics used on the machines in the 1970s and
		1980s. He may also testify, based upon his experience
		in the paper mills, that the use of dryer felts on the
		paper machines did not pose a health hazard to paper
		mill workers.
		Mr. Wendlick is expected to testify that, based on his

1973 air sampling tests during a "dry end" felt change, no hazardous asbestos exposure exists in the paper machine area of a paper mill as a result of a "dry end" felt change. He is also expected to testify, based on this test, that all work practices (and materials) connected with a "dry end" felt change were acceptable according to the OSHA Asbestos Standard in place at the time of the testing. Mr. Wendlick may also respond to matters raised within his field of expertise by Plaintiff in the presentation of their case in chief. Accordingly, Mr. Wendlick's testimony is dependent upon the prior testimony of Plaintiff's experts and cannot be predicted with further specificity.

Mr. Wendlick's testimony will be based on his training, experience, research, education, writings, review of medical and scientific literature concerning asbestos disease and other relevant matters, and review of depositions, expert reports, documents and medical records relevant to Plaintiff. Mr. Wendlick is expected to testify consistent with his deposition given in this case.

VII. OTHER WITNESSES

1. Fact witnesses on behalf of Plaintiff:

Plaintiff Geraldine Barabin c/o Brayton Purcell, LLP <i>To be contacted through plaintiffs' counsel</i> WILL TESTIFY	Mrs. Barabin is expected to testify about her marriage and life with Decedent, her knowledge and understanding of the nature and extent of his exposure to asbestos and asbestos-containing products. Her understanding of the events surrounding the diagnosis of mesothelioma, Decedent's medical treatment and death; how Decedent's life was affected by the illness; how her life has been affected by the illness, and the facts pertaining to plaintiffs claim for economic and non-economic damages.
Bryan Barabin c/o Brayton Purcell, LLP <i>To be contacted through plaintiff's counsel</i> POSSIBLE WITNESS ONLY	Mr. Barabin is expected to testify about his life with Decedent, his knowledge and understanding of the nature and extent of his exposure to asbestos and asbestos-containing products. His understanding of the events surrounding Henry Barabin's diagnosis of mesothelioma, Decedent's medical treatment and death; how Decedent's life was affected by the illness; how his life has been affected by the illness.

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1 2 3 4 5	Robert Barabin c/o Brayton Purcell, LLP <i>To be contacted through plaintiff's counsel</i> POSSIBLE WITNESS ONLY	Mr. Barabin is expected to testify about his life with Decedent, his knowledge and understanding of the nature and extent of his exposure to asbestos and asbestos-containing products. His understanding of the events surrounding Henry Barabin's diagnosis of mesothelioma, Decedent's medical treatment and death; how Decedent's life was affected by the illness; how his life has been affected by the illness.
6 7 8 9 10 11 12	Decedent Henry Barabin Prior trial transcript WILL TESTIFY	Decedent Henry Barabin will testify about his education, family history, and work history and illness including the work he performed at the Camas Mill, his duties on each of the positions he held, his activities while working at the paper mill, his cutting and taking used dryer felts home where he cut and used the felts in his garden, his disease, his understanding of the events surrounding his diagnosis of mesothelioma, his medical treatment for the disease, how life has been affected by illness, his marriage to Geraldine Barabin, and the facts pertaining to the claim for economic and noneconomic damage.
13 14 15 16 17 18 19 20	Ivan Fearnhead Prior trial and deposition transcripts WILL TESTIFY Scapa objects to Plaintiff using prior testimony of its former corporate representative when its current corporate representative will be present and provide live testimony.	Ivan Fearnhead is Scapa's former corporate representative and will provide testimony regarding Scapa's corporate history and multiple issues related to Scapa's manufacture and sale of any asbestos-containing dryer fabrics.

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1 Harry J. Merck, Jr.	Harry Merck is Scapa's former corporate representative and will provide testimony regarding Scapa's corporate history and multiple issues related to Scapa's manufacture and sale of any asbestos-containing dryer fabrics.
2 Prior deposition transcripts	
3 WILL TESTIFY	
4 Scapa objects to Plaintiff using prior	
5 testimony of its former corporate	
6 representative when its current	
7 corporate representative will be	
8 present and provide live testimony.	

2. Fact witnesses on behalf of Scapa:

9 James H. Price, III	Mr. Price was the attorney for Fort James Corporation who personally directed and oversaw the collection of asbestos-related documents from the Camas Mill
10 or other designated records	
11 custodian	
12 c/o McGuire Woods LLP	
13 One James Center	Mr. Doherty, a former employee who was the vice president of manufacturing for Scapa starting in approximately 1990 and had previously worked at Albany International from the late 1960s to 1985 and at Niagara Lockport from 1985 to 1990 in various capacities. Mr. Doherty will testify on Scapa's corporate history and multiple issues related to Scapa's manufacture and sale of any asbestos-containing dryer fabrics, including the composition of the fabrics, why no warning labels were needed on the products, and why there was no health hazard from using the products. He may also offer testimony regarding Albany's dryer felts and customers.
14 901 East Cary Street	
15 Richmond, VA 23219-4030	
16 May Testify	
17 James Doherty, a former Scapa	Deposition taken June 26, 2007. <i>Barabin v. Albany International Corp.</i> Scapa believes that Plaintiffs are already in possession of this deposition transcript. If they are not, it is available upon request.
18 employee	
19 12408 School House Street	
20 Raleigh, NC 27614	
21 Will Testify	Deposition taken June 27, 2007. <i>Barabin v. Albany International Corp.</i>
22 Harry Mickes, a former Crown	
23 Zellerbach Camas Mill employee	
24 May Testify	
25 Buford Sanders, a former Crown	Deposition taken June 27, 2007. <i>Barabin v. Albany International Corp.</i>
Zellerbach Camas Mill employee	

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1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25	May Testify	Scapa believes that Plaintiffs are already in possession of this deposition transcript. If they are not, it is available upon request.
	Leard Henry, a former Crown Zellerbach Camas Mill employee	Deposition taken June 28, 2007. <i>Barabin v. Albany International Corp.</i>
	May Testify	Scapa believes that Plaintiffs are already in possession of this deposition transcript. If they are not, it is available upon request.
	Lloyd Niece, a former Crown Zellerbach Camas Mill employee	Deposition taken February 21, 1983 and August 31, 1984. <i>Crone v. Johns-Manville Corp.</i> , USDC Western District of Washington, Tacoma, Case No. C81-832M(T); <i>Niece v. Raymark Industries, Inc.</i> , USDC Western District of Washington, Seattle, Case No. C81-131-0M
	May Testify	
	Plaintiff objects.	Scapa believes that Plaintiffs are already in possession of this deposition transcript. If they are not, it is available upon request.
	Hugh Holdt, a former Crown Zellerbach Camas Mill employee	Deposition taken May 17, 1982; February 22, 1983; and January 17, 2003. <i>Crone v. Johns-Manville Corp.</i> , USDC Western District of Washington, Tacoma, Case No. C81-832M(T); <i>Myhran v. Johns-Manville Corp.</i> , USDC Western District of Washington, Tacoma, Case No. C81-626T.
	May Testify	
	Plaintiff objects.	Scapa believes that Plaintiffs are already in possession of this deposition transcript. If they are not, it is available upon request.
	Gerald T. Olsen, a former Crown Zellerbach Camas Mill employee	Deposition taken May 28, 1982. <i>Myhran v. Johns-Manville Corp.</i> , USDC Western District of Washington, Tacoma, Case No. C81-626T.
	May Testify	Scapa believes that Plaintiffs are already in possession of this deposition transcript. If they are not, it is available upon request.
	Plaintiff objects.	
	Andrew Richardson	Deposition taken 5/11/1987 <i>Cannon v. Owens-Illinois</i> , USDC, District of South Carolina, Cause No. 84-1950
	May Testify	He is former manager of the "Limpet" department for both Keasbey & Mattison (1959-1962) and AC & S (1962-1967) and Atlas Asbestos Company (1967-1970 when Limpet was discontinued)

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VIII. EXHIBITS

See Appendix of Exhibits and Objections to Authenticity and Admissibility.

IX. ACTION BY THE COURT

This case is scheduled for trial before a jury on March 26, 2018, at Seattle.

Trial briefs shall be submitted to the court on or before March 19, 2018.

Designations, objections, and counter-designations of prior testimony shall be submitted to the court on or before March 19, 2018.

Jury Instructions requested by either party shall be submitted to the court on or before March 19, 2018. Suggested questions of either party to be asked of the jury by the court on voir dire shall be submitted to the court on or before March 19, 2018.

This order has been approved by the parties as evidenced by the signatures of their counsel. This order shall control the subsequent course of the action unless modified by a subsequent order. This order shall not be amended except by order of the court pursuant to agreement of the parties or to prevent manifest injustice.

Dated this ^{22nd} ~~6th~~ day of March, 2018



Honorable James L. Robart
United States District Judge

FORM APPROVED

By: /s/ Meredith Boyden Good
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Attorney for Plaintiff

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1 **FORM APPROVED**

2 s/Nicole R. MacKenzie

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5 Email: nmackenzie@williamskastner.com

6 *Attorney for Defendant Scapa Dryer Fabrics*

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CERTIFICATE OF SERVICE

• The undersigned hereby certifies that on March 6th, 2018, the foregoing was electronically filed with the Clerk of the Court using the CM/ECF system which will send notification of such filing to the following:

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Email: portland@braytonlaw.com;
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Attorneys for Plaintiff

Signed at Seattle, Washington this 6th day of March , 2018.

s/Nicole R. MacKenzie

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